

FOR MYSORE STATE

-11-5-55

Public Works. (1955) Department.

Rs SERIES.

G.O. No.	4025
	4025
Dated	19. 10. 55.

Passed

RS

Superint

21/11/55

[Despatch Abstract.]

✓ Ports - South Kanara - Mangalore - Lands within port limits -
North Reclamation Area - Termination of lease for violation of
conditions - Instructions - Papers recorded.

REVENUE DEPARTMENT
SUBJECT

Lease - Land (S.Kanara) Mangalore - Lands with in port limits -
North reclamation area - plots leased to receiver Juma Mosque
and others - violation of the condition - cancellation of
lease deeds.

No. B.2368/54-1 dated 7- 6 -/54.

STATION. Madras

Dated 9th June 1954.

From W.R.S.Sattianathan,
Sri W.N.S.-Raghavan, I.C.S., Commissioner of Land Revenue
Sri P. Sivasankaran Pillai, I.A.S., Secretary Board of Revenue

Read:-

From the Collector Ref. No.19215/52 dated 8-3-54.

.....

REFERENCE.

Submitted to Government

The Port officer Mangalore has requested the collector of S.Kanara to cancel the lease deeds executed by (1) Sri .Basthi - Devappa Shanbogue, (2) Sri.Marar Venkatarama Pai and (3) Receiver / Juma Mosque, Mangalore for contravening condition 2(6) of the lease deeds, which prohibits under letting or parting with the possession of the demised premises or any part thereof. All these three leases were granted for 25 years commencing from the dates specified in the deeds for the construction of store buildings or for such similar purpose. The ~~leasees~~ have sub-let the building and thus have contravened condition 2(6) of the deed. The G.P. Mangalore, who was consulted by the collector holds the view that the breach of condition came to the notice of the port authorities in 1948 and as the rent has been subsequently accepted, the ~~for~~ forfeiture is waived under section 112 of the Transfer of property act. But the G.P.Madras is of the opinion that the Transfer of ~~Proper~~ Act does not apply to grants made by the Government and that they will be governed by the ~~Government~~ crown Government grant Act of 1895 and that the acceptance of the rent would not operate as a waiver of Government's right to terminate the lease. He further points out whether the acceptance of the rent by the collector would be ~~building~~ on the Government and would amount to an implied ratification of the under letting is a matter which depends largely on the scope and extent of the Collector's authority who must be deemed to be acting as an agent of the Government. The Collector requests instructions on this point as well as to who should cancel the lease deed either the Collector or the presidency port officer. The leases were not granted under the provisions of B.S.Os but appear to have been made according to G.O.2940 dated 22-12-36. Similar grants or leases were made by the presidency port officer Madras. The condition 4(b) of the lease deed also refers to the presidency port officer. The rent in these cases were collected by him. The circumstances that led to the execution of the lease deeds by the Collector are not known. In view of the above complications and difference of opinion between the G.P.Mangalore and G.P.Madras, the Board submits the above cases to Government for their orders in consultation with the legal department.

G.P.Mangalore
For SECRETARY 9654

To
Secretary to Government Revenue Department.

(With encls)

1. Records of enquiry pages 1 to 164

2. Dis 3289/5-6-40

3. Dis 1416/25-6-1938

4. " 5194/39 dt 31-8-38.

Ref. 11215/53

S. Kumar Collector's office,
Pondicherry dated 2-3-54.

From

Mr. A. S. in am Chettiar, I.A.S.
Collector of South Arcot.

The Secretary to Government,
Revenue Department, Fort St. George,
Pondicherry.

Through

The Secretary to the Board of Revenue,
Land Revenue, Madras,
Pondicherry.

Sir,

1. In the land revenue - cases within P. S. limits
North Arcot District - which are leased to Receiver Juma
and others - violation of the condition -
circulation of the lease deeds - report submitted.
--- Out ---

In his letter No. 11215/53-1 dated 2.3.54
the Mr. Chettiar, has referred to three leases of
land held by the Collector of South Arcot and the
referred to lease (Mr. Basil Devappa Shanbhag, Receiver
Juma and others Receiver Juma and others,)
concerning the lease of land in the North Arcot
area within P. S. limits. The Mr. Chettiar requests
that the lease deeds should be cancelled as the deeds
are in violation of condition 2(6) of the lease deeds. I am
submitting herewith the lease deeds in original and the
copies of the same. Nos. 11215/53-1, Dis. 1415/1935 and
No. 11215/53-1, Dis. 1415/1935 and the lease deeds in the
area of the respective leases. All the three leases were for
25 years and were from the dates specified in the lease
deeds and were made for the construction of a building and
for and similar purpose.

2. In violation 2(6) of the lease deed prohibits
any person from alienating the possession of the decided
premises or any part thereof. Enquiry has been made through the
Mr. Chettiar, Receiver Juma and others that the lessees have sublet the
buildings and have not maintained condition 2(6) of the
lease deeds. The same has been referred to Mr. Basil Devappa Shanbhag
Receiver Juma and others Receiver Juma and others for his consideration.

rent by the Collector and not deprive the Government of its right to enforce the terms of the leases and terminate them. The receipt of the Collector on the subject makes it necessary to cancel the Collector's orders to waive the breach before proceeding further to cancel the lease deeds. The opinion of the Government of Madras is that if the Collector had authority to waive the breach then the Government's rent outlay on the breach would amount to an indemnification. In that case there will be no objection to enforcing the condition and to cancel the lease deeds.

6. The leases were not made under the provisions of any S.O. but a certificate has been issued according to S.O. 2940/1-12-13. The Part Officer's letter on the similar grants made by the Presidency Part Office, Madras. No. 1.1.34 / 25-12-13 requires that copies of the lease deeds be sent to the Presidency Part Office for perusal and by the Presidency Part Officer to certify the conditions have been certified by the Collector. Under condition 4(b) of the lease deeds refers to the Presidency Part Officer, Madras as the authority, competent to take action under the condition. In view of these facts, the circumstances that led to the execution of these lease deeds by the Collector and not by the Presidency Part Officer are not clear. There are no clear instructions on the scope and extent of the Collector's powers in the case of such grants, and the only authority referred to in the S.O. above. Moreover the records of these cases, were not sent by the Part Officer, Madras to the Collector. It is also to be noted that the Collector's certificate of rent by the Part Officer can be sent to the local officer side to the Collector and is not sent to the Government (S.E. the Government).

7. It is however clear with the view of the Part Officer that the breach of condition is evidently a breach and the lease deeds are liable to be cancelled. As per

$$\begin{array}{r} 59591 \text{ A} \\ \hline 20.8 \end{array}$$

LEASE - Land - (South Kamara) - Mangalore - Land within
port limits - North reclamation area - Plots leased to
receiver - Jumma Mosque and others - Violation of the condi-
-tion - Cancellation of the lease deeds - Report.

Station:- Madras. Ref.B.2368/54-2, Dated 13th August 1954.

From

Sri T.N.S.Raghavan, I.C.S., Commissioner of Land Revenue

Sri P. Givasankaran Pillai, I.A.S.,
Secretary, Board of Revenue, Madras.

Read:- Board's Ref.B.2368/54-1, dated 7-6-54.
From the Collector of South Kanara, Ref.C.No.B2-1921
/52, dated 6-8-54.

REFERENCE:

The Board requests orders.

Richardson
for Secretary.

The Secretary to Government, Revenue Department, Madras (para 1 only)
The Collector of South Kanara (para 2 only).

PVV.13.8.

REVENUE DEPARTMENT
Subject

86879

LEASE - Land - (South Kanara) - Mangalore - Land within
port limits - North reclamation area - Plot leased to
receiver - Juma House and others - Violation of the condi-
tion - cancellation of the lease deeds - report.

Station:- Madras.
Ref.B.2328/24-2.
Dated 13th August 1924.

From
Sri T.N.S. Subbavani, I.C.S., Commissioner of Land Revenue
Sri T. Nivassanathan Pillai, I.A.S.,
Secretary, Board of Revenue, Madras.
Read:- Board's Ref.B.2328/24-1, dated 7-8-24.
From the Collector of South Kanara, Ref.C.No.25-1-1-1
Ref.B.2328/24-1, dated 6-8-24.

REFERENCE:

The Board requests orders.

For Secretary.

The Secretary to Government, Revenue Department, Madras
(Copy 1 only)
The Collector of South Kanara (para 2 only).

TW.15.2.

Yr

27/8
30

9 PWD

Memo. no. 55661 F/54-2 y

28-8-5

Post-Nagpur - Lease of lands in
North Reclamation area - Cancellation
lease deeds for violation of conditions of
lease.

P. C.

From the Bd. of Rev. Reg. no. B-2362/54-2

9.13.8.54.

Handwritten note: Memo. no. 55661 F/54-2 y

27/8/54

The Bd. of Rev. is informed that
the matter is still under the examination

21/10/54
Bd. of Rev.

21/8/54

27/8/54
27.8.54

27.8.54

11/11/2011 04:02:14
AA72R5.9.

port-

Sri W.R.S. Sattianathan, I.C.S., Commr. of Land Revenue.
Sri P. Sivasankaran Pillai, I.A.S., Secretary, Board of
Revenue (LR), Madras.

SECRETARY OF THE GOVERNMENT
25 SEP 1961

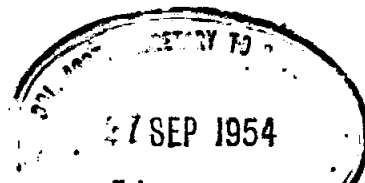
The Board requests orders.

For Secretary.

Am 21. 6.

X

75744



Per Sept.

to Subtr.

The main ~~ship~~ was sent to

P.W. finally with this Sept.

M. 424 61A / 57-2 Aided 8-7-54.

The main ship is sent to P.W.
in continuation.
$$\begin{array}{r} 26 \\ \hline 261954 \end{array}$$

$$\begin{array}{r} 9 \\ \hline 26954 \end{array}$$

P.W.

Per now 69.21A / 57-1

$$\begin{array}{r} 26 \\ \hline 26954 \end{array}$$

Memo. NO. 55601F/54-3 dated 25-7-54.

Lease - Land - Mangalore - Lands within
Port Limits - North Reclamation area.

From the collector of South Kanara letter
no. 19215/52 of 8-3-54.

The properties under question
comprise portions of land in the Mangalore
Port North Reclamation Area which was
reclaimed at the cost of the Mangalore
Landings and Shipping Fund. But no
information is available as to how
the Govt. obtained the property and what
the nature of the right possessed by it

26/30-9

pp 35 of

1.2.54
2.2.54
3.2.54

your ^{act} in regard to the lands. The collector of
South Kanara and the S.P.O. are therefore
requested to furnish ^{very urgent} detailed particulars in
regard to the above points.

JHS
TS/S

29.9.54.

P.H.
28.9.54

To the Collector of South
Kanara
To the S.P.O.

copy to the B.A. Rev.
W. T. M. Rev. M.
B. 2379/S. 5921/5

Kd
Fu
4/10

P.L.

60
1-11

15 KND (F.)

Memo no 55661 F/54-4 dated 30-10-54.

Lease = Land - Mangalore - Lands within
port limits - most Reclamation Area.

Sp 13/14 cc

To the Colly. S.K. Memo. no. 55661 F/54-3 of
28.9.54.

The Colly. South Kanara is
requested to expedite his report.

30.10.54

As the Colly. S.K.
to the S.P.O.

29/10/54
29.10.54
28/11

REVENUE DEPARTMENT.
SUBJECT.

84184

LEASE - LAND (South Kanara) Mangalore- Lands - within port limits - North reclamation area - Plots leased to Receiver Jumna Mosque and others - violation of the condition - cancellation of lease deeds.

=====

No.Bd's Ref.B.No.2368/54-3 Station:Madras Dated: 27--10--54.

Sri W.R.S.Sattianathan I.C.S., Comr. of Land Revenue.
Sri P.Sivasankaran Pillai, I.A.S., Secretary.

I - H. Road: Bd's Ref.No.B.2368/54-1 dt., 7.6.54.

-do-

-do-54-2 dt., 13.8.54.

Govt., Memo No.55661 F/54-2 dt., 28.8.54.

The Board requests orders.

To the Secretary to Government,
Public Works Department.

For Secretary.

plk-27/10

S.S.
27.10

49
5-11

19
6-11-54
P.W.D.(F.)

Memo. no. 55661 F/54-5 of
Lease- Land- Mangrove- Land,
within post limits - North Reclamation area

p17 of from the Bd of Rev. no. B. 2368 /54-3 of 27.10.54

The attention of the Bd. of Revenue

& pp13-14 of is invited to forward Memo. no. 55661 F/54-3 of
to the Commr. & S. K. and the S. P.O. -
29.9.54 - copy sent to the Board - and its

is informed that their replies are still awaited.

3
5.11.54

CENTL.

to the Bd of Rev.

135

patche's Initials.

4/11/54

5-11-54

Ref. B2.19215/54

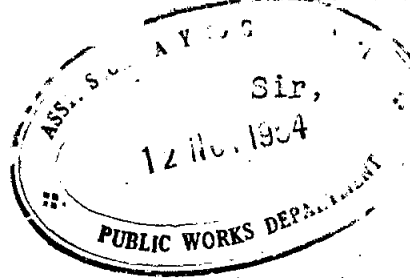
87293

S. Amara Collector's Office,
Mangalore dated 6-11-1954.

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From
Sri M.G. Raja Ram, I.A.S.,
Collector of South Kanara.

To
The Secretary to Government,
Public Works Department,
Fort St. George, MADRAS.



LEASE - Land. Mangalore - Lands within port limits -
North reclamation area -

Ref: Government Memo No. 55861/54-F-²⁸⁴ dated 29-9-54
and 30-10-54.

The Tahsildar, Mangalore to whom the matter was referred to for report on the points raised by the Government in their memo cited, has reported to me, that the previous connected records are required by him. The connected, records viz, (1) R.D. ~~3289~~ 3289/40 (2) R.Dis. 1416/38 and R.Dis 5194/39 were submitted to Government along with this of ice report Ref. B2 - 19215/52 dated 8-3-54. They may please be returned to me. I also request that time till the end of this month may also be granted to submit my report.

Yours faithfully,

8-11-1954

For Collector.

Copy to the Secretary to Board of Revenue, (Land Revenue,
Chepauk, Madras. 5.
E.R. 8.11.

12811

By Regd. Post.

23

P.W.D.(F)

24
16-11

Memo. No. 55661 F / 54-6 dated 15-11-54.

Lease - Land - Mangalore - Lands within
port limits - North reclamation area - Lease.

p21ct

Ref: From the collector of South Kanara a letter
no. B2.19215/54 of 6.11.54.

The following records required
by the collector of South Kanara are
returned to him for remission along
with his reply.

(1) R.D. 3289/40, (2) R.D. 1416/38 and (3) R.D. 5194/39.

~~24/11/54~~

The collector of South
Kanara with
✓ enclosures.

14/11/54
15-11-54

15-11-54

By to the Sd or Secy (Land Revenue)

55561/54
REVENUE DEPARTMENT
Subject.

Lease - Land - Mangalore-Lands within Port limits -North Reclamation area.

....

Station: Madras.

Bd's Ref.B.2379/54.7

dt. 7-11-54.

Sri W.R.S. Sattianathan I.C.S. Commr. of Land Revenue.
Sri P. Sivasankaran I.A.S. Secretary Board of Revenue (.L.R)

....

Read: Govt. Memo No.5566, F/54-3 dated 29-9-54 - p13 cr
Collector of South Kanara R.f. B.2 19215/52 dated 23-10-54.

Reference:

The Board submits that ^{as} remarks will be submitted to Government soon after the collector's report is received.

For Secretary.

To
The Secretary to Government,
Public Works Department,
(with Enclosures)

c.w8/11

PWD (F.)

8/14
A.R. Lill 18.12.54. (Pl. see

the reference on pp 21 and 23 and)

18/11/54

19.11.54

19.11.54

Ref.B2.19215-52.

S.Kanara Collector's office,
Mangalore dated 23.10.54.

27

From

To

Sri V.Seetharama Servai, B.A.
Collector of South Kanara.

The Secretary to Government
Public Works Department
Fort St. George Madras 9.



Lease--Land--Mangalore--Lands within Port limits--North
Reclamation Area--Interim report submitted.

Ref: Government Memo No.55661.F.54.3 dated 29.9.54.

pp 13-14

I have not yet received the report called for from the
Tahsildar Mangalore and so I could not submit my report. I shall
submit the same by 15.11.54.

Yours Faithfully,

23.10.54.

For Collector.

Copy to the Secretary to the Board of Revenue, Land Revenue, Chepauk,
Madras 5.

Copy to the Tahsildar Mangalore in continuation of this office
reference of even number dated 6.10.54. He is requested to submit
his report immediately.
IC/23.10.54.

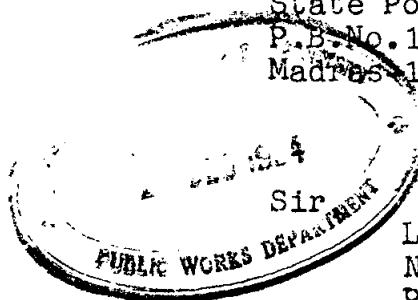
28/10

93162

From:
L.H.Cornish Esq.,
State Port Officer,
P.B.No.13,
Madras 1.

To: ✓
To the Secretary to Government,
Public Works Department,
Madras.

No.3386 G1/54-3 dated 30th November 1954.



Leave - Land & Mangalore - Lands within port limits -
North Reclamation area - Govt. Memo No.55661 F/54-3
P.W. dated 29-9-54.

With reference to the Government Memo cited, I enclose herewith a copy of Government Memo No.9371-3 Finance (Marine) dated 26-9-1927 according to which the land reclaimed at the cost of the Landing and Shipping Fund is the property of Government and it is to be disposed of in accordance with Board's Standing Order No.15(35)(vi). Since the north reclamation at Mangalore has been made at the expense of the Landing and Shipping Fund, it has been treated as Government property.

P.W.D. (F1).

*Fried pending the receipt of the report of
the collector of South Canara.*

Yours faithfully,

State Port Officer.

L

p.t.o.

AT/1.12.

m
3.12.54

Ans
1/12/54.
L.H.C.
12.54

--

Copy of Government Memo No.9371-3 Finance (Marine) d/ 26-9-1927.

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Port of Mangalore - Reclamation of land - From the Collector of South Kanara No.3535-B2-27 dated 31-5-1927.

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The Collector of South Kanara is informed that the land reclaimed by the Landing and Shipping Fees Committee at the cost of the Landing and Shipping Fund is the property of Government that it should be disposed of in accordance with Boards Standing Order No.15(35)(vi). Since the reclamation has been made at the expense of the Landing and Shipping Fees Committee the Collector should consult the Committee in disposing of the land.

2. To enable the Government to decide how the revenue derived from the reclamation should be credited, the Collector is requested to submit a plan of the reclaimed land together with information regarding its area the cost of reclaiming it and the amount of revenue which it is expected will be derived from the site.

(True Copy)


State Port Officer
Le

Ref.B2.19215-52



South Kanara Collector's Office,
Mangalore dated 9-12-54.

FROM

Sri A. Kulkarni, P.A.,
Collector of S. Kanara.

The Secretary to Government;
P.W. Department,
Fort St. George, MADRAS

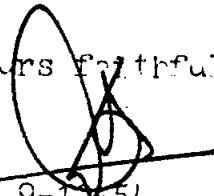
Sir,

LEASE - Land - Mangalore - Lands within Port limits -
North reclamation area - Certain particulars called
for - Interim report submitted.

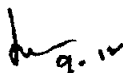
Ref: Govt. Memo No. ⁵⁵⁶⁶¹5561/F-54-3 dated 21-9-54 and
Govt. Memo No. 55661/F-54-6 dated 15-11-54.

The information required by the Government is not readily
available. It is being examined and I shall submit my report
by 20-12-54.

Yours faithfully,

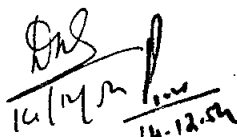

9-12-54
For Collector

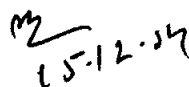
H.R. 9.12.



PND (F1)

A.R. Hill 30.12.54


14/12/54


15.12.54

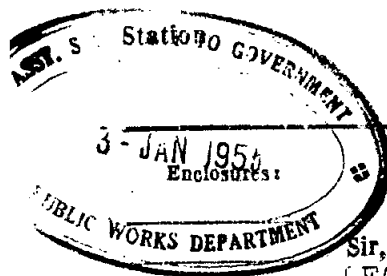
Department:

Received _____ Registered _____

From (Name) Sri A. Kunhamed, B.A.

To

Designation Collector of S. Kanara.

The Secretary to Government,
P.W. Department,
Fort St. George,
Madras-9.

No. Ref. B2.19215/54, dated 27-12-54. 195

Sir,
LEASE - Land - Mangalore - Lands within Port limits -
North reclamation - Report submitted.

354

Ref: - Govt. Memo. No. 55661/F/54-3 P.W.D. dated 29.9.54.
2. Memo. No. 55661/F54/6 P.W.D. dated 15.11.54.

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With reference to the Government Memorandum cited, I enclose a copy of Government Memorandum No. 9371/3 Finance (Marine) dated 26.9.1927 according to which the land reclaimed at the cost of the landing and shipping fund is the property of Government and it is to be disposed of in accordance with Boards standing order No. 15(35)(vi).

2. The following records received with the Government Memorandum cited (2) are enclosed for return when done with.

- (1) R. Dis. 3289/40.
- (2) R. Dis. 1416/38 and
- (3) R. Dis. 5194/39.

Yours faithfully

27-12-54

For Collector.

(True) copy of Memo. No. 9371/3 dated 26th September 1927 from the Government of Madras Finance (Marine) Department.

Port of Mangalore - Reclamation of land.

Ref: - From the Collector of S. Kanara No. 3535/B2/27 dated 31st May 1927.

--

The Collector of S. Kanara is informed that the land reclaimed by the Landing and Shipping Fees Committee, at the cost of the Landing and Shipping Fund is the property of Government and that it should be disposed of in accordance with Boards Standing order No. 15(35)(vi). Since the reclamation has been made at the expense of the Landing and Shipping Fees Committee the Collector should consult the committee in disposing of the land.

2. To enable the Government to decide how the revenue derived from the reclamation should be credited, the Collector requested to submit a plan of the reclaimed land together with information regarding its area the cost of reclaiming it and the amount of revenue which it is expected will be derived from the site.

88
27-1

Memo. no. 55661 F/54-7 of 27-1-55

Lease- Land - Navalgore - land
within PRR limits - north reclamation
area.

to the collector of S. Kan. Memo. no. 55661 F/54
of 28-9-54.

from the collector of S. Kan. Memo. no.
P. 2. 13215/52 of 27-12-54.

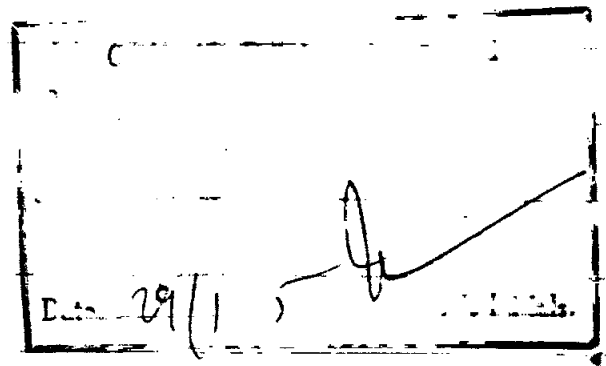
Pl. see 'A' }
on p. 6 of }
The collector of South Kanara
is informed that the question
to be settled is not to whom the
lands belong after reclamation
and how they should be disposed
of, but to whom the lands
belonged before it ^{they were} ~~was~~
P. To

reclaimed and how the Govt. obtained them and what the nature of the right possessed by the Govt. is in regard to the land. The Collector of South Kanara is therefore requested to examine the above aspect of the question and submit a report to Govt. through the Bd. of Rev.

2. The S.P.O. is requested to state whether he could throw any light on the above aspect of the question.

BK
22/1/55
1/1/55

my
24.1.55



To the Collector of South Kanara,

To the S.P.O. } with a copy of
To the Bd. of Rev. } letter from the
Collector of S.K. on
P33 of

17
9/3

37 P.W.D. (H)

Memo. no. 55661 F/54-8 dated 8-3-1955.

Lease - Lands - Mangalore - Lands within
port limits - north reclamation area.

To the collector of South Kanara ^{& S.P.O.} Memo. no.
55661 F/54-7 of 27.1.55.

The collector of South Kanara and the

S.P.O. are requested to expedite them

my
7.3.55

reply.

DR
6/3/55
4.3.55

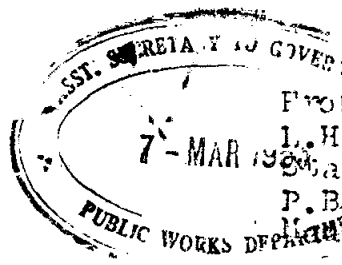
To the collector S.K.

To the S.P.O.

Copy to the Bd of Rev.

Approved by R. V. P.
Date 11/3/55 Initials

39



137/54

From
L.H. Donish, Esq.,
State Port Officer,
P.B. No. 43,
Madras 1.

To
The Secretary to Government,
Public Works Department,
Madras.

No. 315 G1/55-3, dated 5-3-1955.

Sir,

Sub:- Lease - Land - Mangalore - Land within port
limits - North Reclamation area.

Ref:- Government Memo No. 55661 P/54-7, P.W., dated
27-1-55.

In reply to para 2 of the Government Memo cited, I have
to state that the reclaimed land at the port of Mangalore
referred to, was river bed or portion treated as "river
poromboke" belonging to Government before reclamation. Such
river poromboke lying within the port limits are now being
treated as "reserved" under B.S.O. No. 15, para 35(viii)(2).

Yours faithfully,

State Port Officer.

PWD(FI)

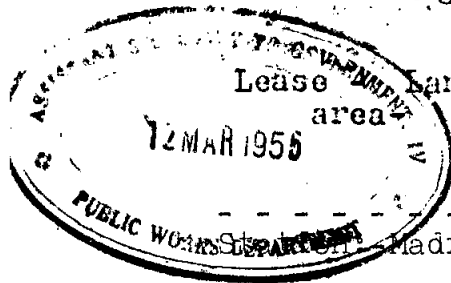
Filed pending the
receipt of the report of the
C.M. & S. K. Kanane.

10/5
8/9/55

9-3-55

20520

REVENUE DEPARTMENT
Subject



Land- Mangalore- Lands within Port limits- North reclamation
area

--

Ref.-B.2368/54-5- - - - -
Madras. No. dated 8--3.55.

Sri M.V. Subramaniam, I.C.S., Commr. of Land Revenue, Civil Supplies
& Settlement.

Sri P.Sivasankaran Pillai, I.A.S.,
Secretary, Board of Revenue (L.R.), Madras.5.

Read:-

From the Collector of South Kanara, letter No B.2.19215/52
dated 26-12-54.

Government Memo. No.55661-F/54-7 P.W.D.dated 27-1-55.

Reference:-

The attention of the Collector is invited to the references
cited above and he is requested to state when the report called for in
the Government Memo. cited may be expected.

for Secretary.

To the Collector of South Kanara.

Copy to the Secretary to Government, Public Works Dept. ✓

amk 9/3

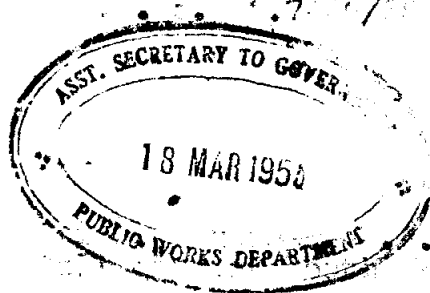
11/3

PWD(F)

Filed

16/3/55 15.3.55

4.2



South Islands Collector's Office,
P.O. Box 15, 15.3.1954

The Hon. Secy to Board of Revenue,
P.O. Box 15, 15.3.1954

1. The Hon. Secy to Board of Revenue,
P.O. Box 15, 15.3.1954

22221

2. The Hon. Secy to Board of Revenue,
P.O. Box 15, 15.3.1954

3. The Hon. Secy to Board of Revenue,
P.O. Box 15, 15.3.1954

4. The Hon. Secy to Board of Revenue,
P.O. Box 15, 15.3.1954

PWD (FI)

Filed

ms
13/55
21.3.55
16/5

Very respectfully,

16.3.54
for collector

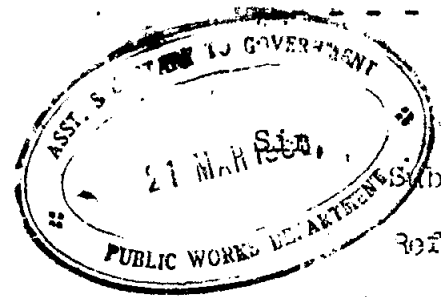
South Islands Collector's Office,
P.O. Box 15, 15.3.1954

45

22952

From:
L.H.Cornish Esq.,
State Port Officer,
P.B.No.13,
Madras-1.

To:
The Secretary to Government,
Public Works Department,
Madras.



No. 729 Q/55-1, dated 19--3-- 1955

Sub:- Lease - Lands - Mangalore - Lands within port limits -
North Reclamation area.
Ref:- Government Memo No.55661-F/54-8 P.V., dated 3-3-55.

With reference to the Government Memo cited, I have to state that a reply to Government Memo No.55661 F/54-7, P.V., dated 27-1-55 has already been sent with this office letter No.315 Q/55-3, dated 5-3-55, copy enclosed.

Yours faithfully,

PWD(FI)

A large, stylized handwritten signature in dark ink, likely belonging to the State Port Officer.

State Port Officer.

Filed pending the receipt of the
reply from the City & South Kemans.

Encl.

1 copy of S.P.O.'s letter d.5-3-55.

124/3755
24.3.55

66
From the State Port Officer, Madras 1,
To the Secretary to Government, Public Works Department, Madras,
No. 415 H/50-3, dated 5-3-55.

Sub:- Lease - Land- Mangalore - Land within port limits - North
Reclamation area.

Ref:- Government Memo No. 55661 F/54-7, P.W., dated 27-1-1955.

In reply to para 2 of the Government Memo cited, I have to state
that the reclaimed land at the port of Mangalore referred to, was
river bed or portion treated as "river bottom" belonging to Govern-
ment before reclamation. Such river bottom lying within the port
limits are now being treated as "reserved" under S.S.O. No. 15, para 35
(viii)(c).

(True copy)



State Port Officer.



REVENUE DEPARTMENT.

Subject:

Lease & Land Mangalore - Lands within Port limits - North reclamation area

28459
Ref.B.2368/54-6

Station: M a d r a s. Dated: 22--5--1955.

From

P.W.D.(F)

Sri M.V. Subramaniam, I.C.S., Commissioner of Land Revenue, Civil Supplies & Settlement.

Sri P. Sivasankaran Pillai, I.A.S., Secretary, Board of Revenue.

Read: Govt. Memo No. 55661/F/54-7 P.W.D. dated 27-1-55.

From the Collector of South Kanara Ref.C.No.B2, 7456/55 dated 15-3-55.

REFERENCE:

A copy of the Government Memo cited above is furnished to the Collector. He is requested to expedite the report called for

p.t.o.

--2--

in it.

~~THIRU S.~~
FOR SECRETAR

To The Collector of South Kanara.

With a copy of the Government Memo dated

27-1-1955.

✓ Copy to the Secretary to Government,
Public Works Department, Madras for information.

S.A./4/4/

NR
4/4/55

24
19/5

47

P.W.D. (F.I.)

Memo No. 55661 F/54-9 dt. 18.5.55

Sub: Lease - Land-mangalore
Land, within port limits
North reclamation area - house.

pp-35-36 of

Ref: Govt. Memo No. 55661-F/54-9
dt. 8.3.55 27.1.55

The Collr of S.K. to the Bd. of Rev.
B.2-7456/55 dt. 10.2.55
From S.K. to the Bd. of Rev.

Ref. No. B.2-7456/55 dt. 10.2.55
B.2-368/54-6 of 22.3.55 to the
Collector, South Kanara.

The Collr of S. Kanara is
requested to expedite his reply.

17/5

19/5/55

18.5.55

20/5/55

The Collr of S. Kanara
copy - the Bd. of Rev.

51 P.W.D. (F.)

D.O. NO. 55661 F/54-10 dated 21st June 1955

Dear Sri. Rajaram,

Sub: Lease - Land - Mangalore -
Lands within port limits - North
Reclamation Area.

Ref: Govt. Memo. no. 55661 F/54.9 of
18.5.55.

I am to advise a reference
to the Govt. Memo. cited, and to request
that, as the matter has been pending for a
long time, an early reply may kindly be
sent to Govt. in the matter.

Y.S.

my
20.6.55

p49 c8

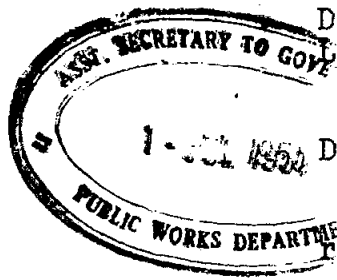
CENTRAL DESPATCH BRANCH	
Desp. No. 11	Ver. / P. /
Date 195	Despatche Initials

Sri. M. G. Raja Ram, I As.,
Collector of South
Kannara,
Mangalore.

DNB
19/6/55
20
Sonce

S.Vrishabha Das, M.A.B.L.
Personal Assistant to the
Collector of South Kanara
and Addl. Dt. Magistrate.

53



D.O.
Dis. 17433-55.

55599

S.Kanara Collector's office,
Mangalore dated 27.6.55.

Dear Sri Chandy,

LEASE--Land--Mangalore - Lands within port limits--North
Reclamation Area.

ps 1 am

Ref: Your D.O.No.55661-54-10 dated 21.6.55.

I am to state that the report referred to in your D.O
letter cited, to the Government has been ^{Submitted} ~~sent~~ through the Board
of Revenue in D.Dis.7371-55 dated 15.6.55. A copy of the report
is enclosed.

Copy 155 mtr

Yours sincerely,

A handwritten signature in dark ink, appearing to be "S. Vrishabha Das".

29.6.55
(S.VRISHABHA DAS)

To

Sri A.J.Chandy,
Assistant Secretary to Government, P.W.D
Madras.

8/2/12

IC/28.6.55.

55

Copy of letter D.Dis.7371-55 dated 15.6.55 from the Collector of South Kanara to the Secretary to Government P.W.D Madras 9 through the Secretary to Board of Revenue (L.R) Madras 5.

LEASE--Land--Mangalore--Lands within the Port limits--
North Reclamation area.

--
Ref: 1.Govt. Memo 5566-7/54-7 P.W.D dated 27.1.55.
2.Board's Ref.B.2368/54-6 dated 22.3.55.

--
The North Reclamation area was reclaimed at the cost of the Landing and Shipping Fund. Before reclamation the area formed a part of the bed of the back water and it belonged to the Government as it constituted a part and parcel of the Nethravathi River.

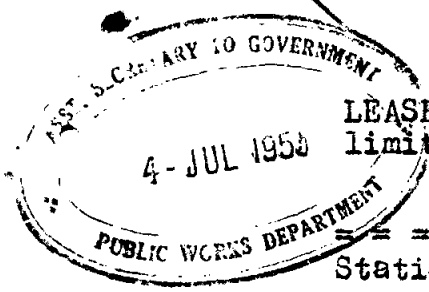
-true copy-


29-6-55.
Personal Assistant to
the Collector, S.Kanara.

IC/28.6.55.

21/6

57



56360 REVENUE DEPARTMENT
SUBJECT
**

LEASE - Land (South Kanara) Mangalore - Lands within the port limits - North Reclamation area - further report submitted.

===== Station: Madras. Ref.B.2368/54.7. Dated: 30.6.55.
**

Sri V.N. Kudva, I.C.S., Commissioner of Commercial Taxes and Land Revenue. and Prohibitions
Sri P. Sivasankaran Pillai, I.A.S., Secretary, Board of Revenue (LR).
**

plan Read: Board's Ref.B.2368/54 dated 7.6.54.
1713 14 am Government Memo.55661.F.54.3 (P.W.D) dated 29.9.54.
1713 35.86 am do. .7 dated 27.1.55.
p55 am From the Collector of South Kanara, D.Dis.7371/55 dated 15.6.55.
--

Reference:-

Submitted to Government.

To the Secretary to Government, Public Works Department, Madras.
ADN.1.7.
For Secretary. 275

D.Dis.7371-55.

Same as p 55 and
S. Kanara Collector's office,
Mangalore dated 15.6.55.

From

To

Sri M.G.Raja Pan, I.A.S.
Collector of South Kanara.

The Secretary to Government
Public Works Department,
Madras 9
Through
The Secretary to Board of
Revenue
(Land Revenue) Madras 5.

Sir,

LEAST--Land--Mangalore- Lands within the Port limits--North
Reclamation area.

Ref: 1. Govt. Memo 5566-P/54-7 P.W.D dated 27.1.55.
2. Board's Ref. R.2068-54-6 dated 22.3.55.

The North Reclamation area was reclaimed at the cost of the
Landing and Shipping Fund. Before reclamation the area formed
a part of the bed of the back water and it belonged to the
Government as it constituted a part and parcel of the Kethravathi
River.

Yours faithfully,


16.6.55
For Collector.

IC/16.6.55.

16/6

Memo No. 55661 F/54-13 dated 21.9.1955.

3/22/54

Lease - Land - South Kanara Dist - Nangalwe-
Lands within post limits - North Reclamation
Area - Termination of lease for violation of
condition.

plc

From the Bd. of Rev. Ref. no. B.2368/54.1 of 7.6.5

p5148

" " " " " " " " B.2368/54.7 of 30.6.5

The Board of Revenue is informed that the observations of the Govt. Pleader Nadhas in his opinion no. 8/54 dated $\frac{7}{8}$.1.1954 are quite correct. ~~The position of law is clearly set out in that opinion.~~ The Govt's right to terminate the lease after due notice under clause 4 (a) of the lease deed is not taken away by reason of the collector having accepted the rent ^{since it} ~~it~~ does not appear that the collector was in any way authorised by the Govt. to waive the breach of covenant committed by the lessee ^{and in} ~~the~~ the absence of any such authorisation, the collector cannot ^{by his act} bind the Govt., he being only a "public Agent". There is therefore no obstacle to the Govt. terminating the lease in enforcement of the covenant.

2. The Board of Revenue is also informed that with the bringing into force with effect from 1.7.1954, of the Nangalwe Post Trust Act, 1953, and the constitution of the Nangalwe Post Trust Board with effect from ¹⁻¹⁰⁻⁵⁴ ~~1-10-55~~ all the properties of the Post now vest in the Nangalwe Post Trust Board ^(- vide section 28 of the Act.) the collector of

South Kanara may therefore be requested to take suitable action in the matter in consultation with the Chairman, Bangalore Port Trust Board.

3 The following papers received with the Bd's reference file 2 cited above are returned herewith to the Board of A.S. It is requested to acknowledge their receipt.

- (1) Records of enquiry — 164 pages. (1)
- (2) R. Dis. 3289/40 of 5.6.40. (2)
- (3) R. Dis. 1446/38 of 25.6.38 (C)
- (4) R. Dis. 5194/39 of 31.8.38. (A)

Ans
22/8/55
28.8.55

2
1.9.55

W
3.9.55

RECEIVED	
Date	
22/9	

2 to the Bd of R. with enclos.

copy to the City of
South Kanara.

Copy to the S. P. O. with enclos.

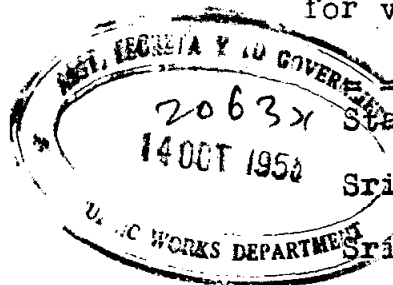
Copy to the Chairman,
Bangalore Port Trust Board,
Bangalore with enclos. with
copy of
p 1 of
and copy
of pp. 161-163 &
(D)

S/c - 2 with enclos. - 1 to the

REVENUE DEPARTMENT
SUBJECT

**

LEASE -Land - South Kanara district - Mangalore - Lands within
portlimits - North Reclamation area - termination of lease
for violation of condition instructions issued.



Station: Madras. Routine 5194

Dated: 8-10-55.

**

Sri V.N. Kudva, I.C.S., Commissioner of Commercial Taxes and
Land Revenue.

Sri P. Sivasankaran Pillai, I.A.S., Secretary, Board of Revenue
(LR).

**

Read: Collector's 19215/52 d/8-3-54 and D.Dis.7571/55 d/15-6-55.
Govt.Memo No.55661 F/54-13 d/21-9-55. — Hp 61-62 and

...

RESTOLUTION:

The Board acknowledges the receipt of the records
sent with the Government memo third cited.

/true extract/

[Signature]
for Secretary. 107055

To

The Secretary to Government, Public Works Department (para 5)

PLG/10/10

[Signature]
w/w

[Signature]
P.W.D. (F.V.)
Filed.

C. no. 42053A/54]

D. 1-5 CF

Revenue Department.

Lease--Land--(S. Kanara)--Mangalore--Lands
within port limits--North Reclamation area--
Plots leased to receiver Jamma Mosque and
others--Violation of the condition- Cancellation
of lease deeds.

From the Rd. 66 Rev. Ref. B. 2368/54-1 dated 7.6.54.

To A.S.

Please see the correspondence in the C.F.

2. Paragraph 2 of the Board's reference on p.1C.F. gives a brief history of the case. The points for orders are --

(1) Whether the acceptance of the rent by the Port Officer, Mangalore ~~Collector~~ would be binding on the Government and would amount to an implied ratification of the underletting by the lessees; and

(2) Who is the proper authority to cancel the lease deeds, i.e., the Collector or the Presidency Port Officer.

3. Point (1) above:--There is difference of opinion between the Govt. Pleader, Mangalore and the Government Pleader, Madras. The former holds the view that the breach of condition came to the notice of the authorities in 1948 and as the rent has been subsequently accepted, the forfeiture is waived under Sec. 112 of the Transfer of Property Act. But, the latter is of the opinion that the Transfer of Property Act does not apply to grants made by the Govt. and that they will be governed by the Govt. Grants Act, 1895 and that the acceptance of rent would not operate as a waiver of Govt's right to terminate the lease. He has further pointed out ^{that is question} whether the acceptance of the rent by the Collector would be binding on the Govt. and would amount to an implied ratification of the underletting, is a matter which depends ~~on~~ largely on the scope and extent of the Collector's authority, who must be deemed to be acting as an Agent of the Government. It is submitted that the leases were not granted under the provisions of E.S.Os. but ^{appear to have been} made in accordance with the instructions in G.O. Ms. No. 8940.

There see below

Q. 1
2754

A

P.W., dated 22.12.36. In that G.O. the Govt. directed that the leasing whether for marine or non-marine purposes should be done by the Presidency Port Officer after the boundaries have been certified to by the Collector. In paragraph 4 of the G.O., the P.P.O. was asked to submit in consultation with the Govt. Solicitor, a draft form of lease providing among other things, the conditions mentioned in paragraph 3 of that G.O. for the approval of the Government. The draft lease deed was approved by the Government in G.O.No. 1742, P.W.(Marine), dated 25.8.1937. The concluding portion of the draft lease runs as follows:-

"In witness whereof The Collector of South Kanara acting for and on behalf of and under the order and direction of His Excellency the Governor of Madras and the lessee have hereinto set their hands and seals the day and year first above written."

It will be seen that
Thus, the lease deeds had to be executed by the Collector as contemplated in the draft lease deed approved by the Govt. in the G.O. ^{25.8.37} mentioned above. It may be pointed out in this connection that the lease rents were collected by the ~~Presidency~~ Port Officer and not by the Collector. This has led the Collector to doubt whether the acceptance of rent by the Port Officer can be said to be a legal tender made to the Collector acting as an Agent of the lessor, that is, the Governor. It is submitted that leases granted by the Govt. are governed by the Govt. Grants Act. Sections 2 and 3 of the Govt. Grants Act make it clear that notwithstanding any provision in the Transfer of Property Act or any other Act, ^a ~~the~~ Govt. grant will take effect according to its tenor. The view of the Govt. Pleader, Mangalore that as the rent has been accepted subsequent to 1948 when the breach of condition came to the notice of the Port authorities, the forfeiture is waived under Sec.

A Please see below
Q
para 25.8.11.3

- 122 - 2

So, 122 (M)

B Please see below
Q
773

para 6

C para 6

D para 6

+ para 6

122 122

Section 112 of the Transfer of Property Act does not seem to be correct.

There ~~is~~ also no clause in the lease deed empowering the Collector to ratify any breach in the conditions of the lease. Clause 4(a) of the lease deed provides --

....." if the lessee shall fail or neglect to observe ~~x~~ or perform any of the covenants and agreements contained in these presents and on the part of the lessee to be observed and performed, it shall be lawful for the lessor or any officer of the lessor ~~x~~ authorised by the Provincial Government and although advantage may not have been taken of some previous default of the like nature, to give six calendar months' ~~not~~ previous notice in writing of the intention to terminate the lease and on the expiry of the period fixed in such notice the present demise and every clause ~~and~~ or thing herein contained shall become null and void and there~~after~~ thereafter it shall be lawful for the lessor or for any officer of the lessor duly authorised thereunto to re-enter into and upon the said premises or any part thereof in the name of the whole. In the event of determination of the lease in accordance with this provision the lessee shall not be entitled to any compensation in respect thereof."

Government have
Under this clause, the ~~Collector has~~ Collector not to give only six months' notice to the lessee of the Govt's intention to terminate the lease and on the expiry of the period, the lease will automatically get terminated and the land will vest with the Government. The Collector of S. Kanara agrees with the Port Office that the breach of condition by the lessees is wilful and the lease deeds are accordingly liable to be cancelled. *A notice may therefore be issued to the lessees* ~~The Collector may therefore be required to issue a notice~~ as required under clause 4(a) of the lease deed and after the expiry of the six months *the land may be taken possession of* ~~period of six months~~

E

123 (M)
10-11 (M)
12-12

2. m. 2-3 CF
12-12 pp. 4-5

is payable in ~~that~~ cases.

4. ^{in para 2} Point (2) on p.1 above:- In another connection where power to revoke a grant for breach of conditions of a lease deed was conferred only on the Government under condition (2b) of the lease deed, Law opined that the Collector's order of revocation was bad. They pointed out that the terms of the grant embody a contract between the Govt. and the grantee and have therefore to be complied with strictly. They were of the opinion that it would be better for the Govt. themselves ^{to} take a decision on the question of revocation and that it will not be in order for the Govt. to delegate this right and duty to the Collector. ~~In view of this advice, it seems that orders should be issued by the Government terminating the leases in question.~~

~~Law may be requested to advise in the matter.~~

~~Prin. may also see.~~ In the present case, clause 4(a) of the lease deeds specifically provides: ~~that~~ ~~that~~ ~~that~~ (2) that it shall be lawful for the lessor or any officer of the lessor authorised by the Provincial Government, to give six calendar months' previous notice in writing of the intention to terminate the lease and on the expiry of the period fixed in such notice it shall be lawful for the lessor or for any officer of the lessor duly authorized thereunto to re-enter into and upon the premises or any part thereof in the name of the whole. But, so far, the Govt. have not authorized the Collector of S.Kanara or any the Port Officer to give notice or to enter into and upon the leased property under clause 4(a) of the deed. The Collector may now be authorized to issue notice and take possession of the property under this clause.

5. It may be mentioned in this connection that the lands were not leased under the provisions of the E.L.O. but under the orders in G.O. No. 2940, P.L. (Marine)

1334

✓ h.p. 7 - 100

S. 1000 - 100

2
Law
Govt

A

(2)

A

dated 22.12.1936. It is therefore for orders whether the file may be transferred to P.W. for further action in consultation with the L.A. Department

SS
7754

Portkins marked A on pp 1-2 and 4-5 above.

pp 115-118 & (R)

7754

The orders in G.O. No. 2940 P.W. dated 22.12.36 relate to the leasing of an extent of 2.72 acres in the South Reclamation area at the Port of Mangalore. The lands covered by the three leases now in question are said to be in the North Reclamation area at the Port. Orders for the leasing of lands in the latter area were issued in G.O. No. 1810 P.W. dated 4.9.1937. In para 1 of this G.O. the Govt. directed that the leases which then existed in respect of the lands in this area should be allowed to run their full terms and then renewed in accordance with the terms approved in G.O. No. 2940 P.W. dated 22.12.36 for the leasing of plots in the South Reclamation area. Accordingly the deeds for the renewal of the leases in respect of the plots in the North Reclamation area were also to be in the form approved in G.O. No. 1742 P.W. dated 25.8.37. The lease deeds at (A) show that they are for the renewal of the leases mentioned as items 1, 5 & 8 on page 7 of G.O. No. 1810 P.W. dated 4.9.1937.

(R)

(M)

(Z)

2. B on p 2 and

(M)

The 2 B form of the lease deed approved in G.O. No. 1742 P.W. dated 25.8.37 provides for the execution of the lease deeds in the form by the

Collector of the district previously for the reason that the Post Office, Mangalore had not been authorized to receive leases for the first of lands on behalf of the Government of Madras under the ^{provisional} first of the Act, 1835 which was then in force.

3. On p 2 a/c

It does not appear that because the leases were executed by the Commr. on behalf of the Government, the Commr. alone had to receive the rent for the leases and that the Post Office should not receive them.

4. On page 2 a/c

In 1942 in order to avoid the cumbersome procedure in the system of leasing of Govt. lands, the Govt. introduced a system of grants under the Govt. grants Act. It does not appear that because of this it can be said that all leases granted by the Govt. are grants under the Govt. grants Act. The leases in the present case are leases for a single and are not 'grants' under the Govt. grants Act.

~~It is stated by the Government that the provisions of the Govt. grants Act would not apply to grants made by the Govt. as it stands at E on p 2 a/c, the Commr. it appears that the Post Office or the Commr., whichever is now authorized by the Govt. under clause 4(a) of the lease deed, can fix a value to the houses and that the land can be taken possession of on the expiry of the period of notice.~~

6. As 15 cases in question are cases executed in accordance with the orders issued in P.W., 15 file might be referred to this Dept. for further consideration and issue of orders.

Q
9.7.53 ~~AS~~ 10.7.53

107
20534/54-1
10.7.53

55661

P.W.D. (F)

The C.F. and the notes from pages 1-7 above may be perused. The file may be sent to Law Dept. for remarks on the various points raised in the note of Rev. Dept. above.

A reference is in this connection invited to Section 29 of the Mangalore Port Trust Act, 1953 in regard to the property vested in the Board of Trustees of the Port of Mangalore. The Port Trust Board will be constituted shortly. In view of the ~~provision~~ in the section referred to, it is not clear whether the Govt. should pursue the question under consideration or whether the matter should be left to the Port Trust Board to consider after it has been constituted. Law Dept may be requested to advise in this matter also.

2

Dns
31/7/54
3.8.54

4.8.54

At least a full fee be by to Port Trust Government may decide and if the Mangalore Port Trust is to be taken to the Port Trust -

We may advise the Hon-ble in the
light of our decision. Law (Opinions)
may see for remarks.

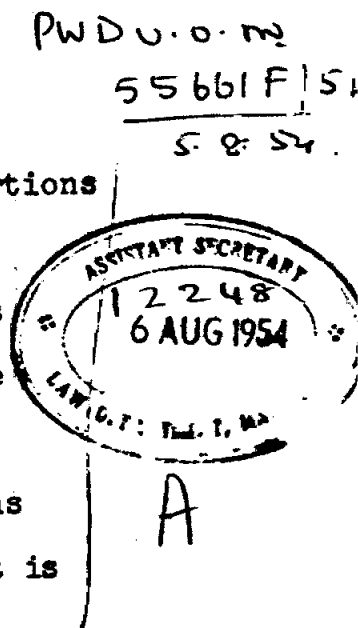
The main points for questions
are whether the lease can be said to
be one under Crown Grants Act and
whether the provisions of P.R. Act can
be attracted to this case? (d) whether
the acceptance of lease by S.O. will
bind the Government?

OR
4/8/54 Law (Opinions)

Law (Opinions) Dept

The question whether the lease covered by the
deeds at pages 7-45 ^{2 (A)} amount to Government Grants
or not has to be answered ^{with} in the reference to the
exact right possessed by the Government over the
property leased. The property seems to comprise portions
of land in the Mangalore Port North Reclamation Area.
Page 2 c.f. of G.O.No.1810, P.W.D., d.4-9-1937 shows
that the North Reclamation area was reclaimed at the
cost of the Mangalore Landing and Shipping Fund but
there seems to be no clear information in the file as
to how the Government obtained the property and what is
the nature of the right possessed.

In A.I.R. 1935 Calcutta 746 a Division Bench of
the Calcutta High Court held that the position of
the Government in regard to Khas mahal ^{lands} was that of an
ordinary landlord, that the Government occupied no



higher position than that of a zamindar or private proprietor and that the Crown Grants Act (now the Government Grants Act) did not apply to a settlement granted to the plaintiffs in the case by the Khas Tahsildar, an officer of the Government in charge of a Khas mahal.

In A.I.R. 1938 Calcutta 211, the same High Court held that grants or leases of Sunderbans lands, which were lands vested in the Crown by section 39 of 21 and 22 Vict. Chap. 106 executed by the Sunderbans Commissioner on behalf of the Secretary of State for India in Council were Crown grants and that the Crown Grants Act, 1895 applied to those grants. The High Court specifically observed that this case was distinguishable from that in A.I.R. 1935 Cal. 746 as the grant in that case was not a Crown grant but a grant of Khas Mahal lands where the Secretary of State for India in Council occupied the position of a mere landlord.

In 1946 II M.L.J. 171 the Madras High Court had to deal with a case where the question was whether the Crown Grants Act applied to a lease made by the Government. The facts of that case as stated by His Lordship Somayya were as follows:-

"The appellant's father was granted a lease of a plot of land measuring 180 ~~square~~ square feet in Perambur within the City of Madras. This was in the year 1917 and the monthly rent was Rs. 5. After the death of the father successive leases were granted by the respondent (State of Madras represented by the Collector of Madras) from time to time. In 1934, the appellant requested the Government to assign the land to him but the Government refused. A similar request was made in 1935 and that again was turned down. In May 1941, the respondent terminated the lease on the ground that one of the conditions of the lease was violated and that the lease contained a provision for forfeiture and re-entry. The lease that was current at that time ran from 1st July 1938 to the 30th June 1941. A notice informing the appellant that his lease was forfeited and asking him to quit was given on the 14th May 1941. The Collector also ordered the Tahsildar to take immediate action to evict the lessee and to re-enter upon the land. The Tahsildar took possession of the land on the 27th July 1941. On the 30th July 1941 the Karnam accepted a sum of Rs. 5/- and gave a receipt. It purports to be a receipt for the lease rent, for the month of July 1941. Subsequently, there were proceedings under the Land Encroachment Act and when the proceedings were going on, the suit under appeal was started on the 1st July 1941.

On the above facts, His Lordship came to the conclusion firstly, that the Crown Grants Act...

the case and secondly that the Karnam had no right to bind the Government by his act of collecting the rent for July 1941."

The facts of the present case seem to be similar

to those in the Madras case referred to above and the observations of the Government Pleader, Madras, at pages 161 to 163 of (D) seem to be quite correct. It does not appear that the Government will be taking too great a risk by assuming that the Government Grants Act applies to the present case and that the Government's right to terminate the lease after due notice under clause 4(a) of the lease deed is not taken away by reason of the Collector having accepted the rent. Before however confirming the above views it is desirable to obtain fuller particulars which may throw light on the point as to how the Government derived the property and what the exact nature of the Government's right over the property is. Revenue may therefore consider whether fuller particulars may not be called for on this point in the first instance.

SE
27.8.54

Rev

Revenue Dept.

To A.S.

Missent. D.W. u.o. - vide para 6

on p. 7 ante

SS
30.8.54

Q
31.8.54

D.W.D (F)

The notes of Law Dept. on pp 3-10. above may be passed. CHH has made to ~~read~~ have any previous papers which could throw some light on the point raised by Law Dept. in Z. above, but to no purpose. The collector of South Kanara and the S.P.O. may perhaps be requested to furnish full particulars

Law D. O. No: 12248/54

27.8.54

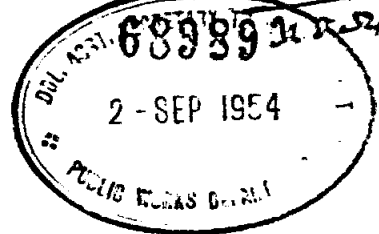
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28.8.54
SECRETARY TO

28 AUG 1954

C.H.
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11/8

Rev No 126547A/54



3061/54

11-

in regard to the properties referred to here
below is for approval.

27/3/54

29.9.54

29.9.54

- pp 13-14 c.f. to the Collr. of S.K. etc Memo. m. 55661F/54.3 of 28.9.54
p 29 c.f. From the S.P.O. Belth m. 3386 fl/54.3 of 30.11.54.
p 33 c.f. From the Collr. of S.K. Belth m. B2.19215/52 of 27.12.54.
pp 35-36 c.f. to the Collr. of S.K. m. 55661F/54.7 of 27.1.55
p 39 c.f. From the S.P.O. Belth m. 315 fl/55.3 of 5.3.55
p 55 c.f. From the Collr. of S.K. m. D.Dis. 7371-55 of 15.6.55.
p 57 c.f. From the Bd of Rev. Reg. m. B. 2368 of 7 of 30.6.55.

The references at pages 13-14, 29, 33, 35-36, 39, 55 and 57 c.f. in regard to the point raised by Law Dept. at Zim ploank may be perused. It will be seen therefrom that the land before reclamation belonged to the Govt. as it constituted part and parcel of the Netravathi river.

The file may now be sent to Law Dept.

27.7.55 Law

24/7/55
26.7.55

PWD U.O. m.

55661F/54-11
27.7.55



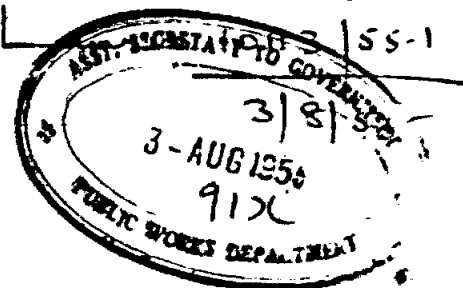
The letter of the Collector at page 55 c.f. amply supports the assumption made by the S.P. Madras, in his opinion No 8/54 dated 7-1-55 at pp 61-63 of (D) and also by this dept in its note at pp 8-10 ante.

The position of law is clearly set out in the opinion of the J.P. Kadras. It does not appear that the Collector was in any way authorised by the Govt to waive the breach of covenant committed by the lessee. In the absence of ^{any} such authorisation, the Collector cannot by his act bind the Govt, he being ^{only} a public agent. It shows there is no obstacle to the Govt terminating the lease in enforcement of the Covenant.

Klek
YMS-

P.W.D. (F.).

This file relates to the question of terminating the leases executed for the lease of lands within the limits of the Port of Mangalore for violation of conditions of the lease deeds.



The reference from the Bd. of Rev. on p1 of and the notes from page 1 are may be perused. Law Dept. have stated that the observations of the Govt. Pleader, Madras & pages 161 to 163 of (D) are quite correct, and that there is no obstacle to the Govt. terminating the lease in enforcement of the Covenant.

1553
As the Mangalore Port Trust Act, 1924 has been brought into force with effect from 1.7.54 and the Port Trust Board has been constituted with effect from 1.10.1954, all the port properties now vest in the

5.25.62
(11)

12.4.55

Post Trust Board, any further action in the matter has to be taken by the collector in consultation with the Mangalore Post Trust Board. In the circumstances the Bd. of Rev. may be informed of the position as set out in the Law Dept. note above, and it may be requested to direct the collector to take suitable action in the matter in consultation with the Post Trust Board. Draft memo below is for approval. Law Dept. may call before issue.

22/8/55
25/8/55

What about point (2) raised by the Board viz. 'who is the proper authority to cancel the lease deeds i.e. the Colln. or the State P.T. Officer'?

27/8/55

Resubmitted.

All the post property now vest in the Mangalore Post Trust Board and the collector will have to take suitable action to cancel the lease deeds in consultation ~~and also the~~ with the Mangalore Post Trust Board. This has been made clear in para 2 of the draft memo below. As regards the person who is competent to

cancel the lease deed, it is submitted that the Post Trust Board, or anybody authorized by the Mangalore Post Trust Board can cancel

The lease deeds.

Dr
2/8/55 h
sub

2
1.9.55

U
3.9.55

Rev/Law



To A.S.

(Previous notes of this Dept are on pp 1-7 ante)
Rev. Dept.
The notes of P. W. D. from p 12 ante

775156/3
7.9.55

and the draft memo. below may be perused
and the file passed on to Law.

In
29.5.55
29.8
10.9.55

Q
11.9.55
SS
Cm
12.9.55

Law

LAW DEPARTMENT

Seen in Law.

14.9.55

D S Kulk
14.9.55

P W D

The draft memo. below.

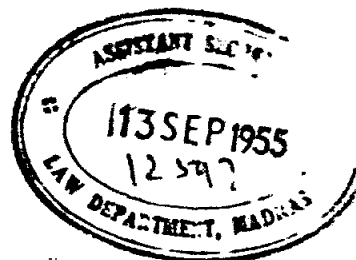
may now issue.

Dr
2/8/55 h
20.9.55

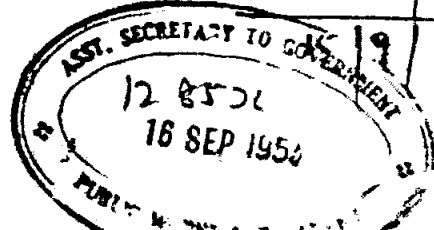
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Rev. U. O. 125
775156/55-1

12.9.55



Law 12597/55-1



To the Bd of Rev. etc Memo. no. 5566 F/54.

of 21.9.55

From the Bd. of Rev. Routine no. 5794 of 8.10.55

The file may now be closed
and recorded in a G.O. for future reference.

76/20/10

BK
14/10/55

M
17.10.55

G.O. MS. NO. 4025 P.W. of 19-10-55.

Post - South Kanara - Mangalore -

Land Water for limits -

Port Reclamation Area -

Termination of lease for

reclamation & conditions -

Information - Papers recorded.

BK
14/10/55

M
17.10.55